

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,  
Plaintiff,

v.

Case No. 99-CR-211  
(Appellate Case No. 07-1306)

YOGESH SHAH,  
Defendant.

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ORDER

Defendant Yogesh Shah moves to supplement the record on appeal with (1) the government's trial memoranda, (2) the government's trial exhibits, (3) grand jury transcripts, (4) FBI 302s and (5) defense trial exhibits. Under Fed. R. App P. 10(e), the district court may correct or modify the record if anything material is omitted or misstated by error or accident. The purpose of the Rule is to ensure that the court of appeals has a complete record of the proceedings leading to the ruling being appealed, not to facilitate collateral attacks on the verdict. Shasteen v. Saver, 252 F.3d 929, 934 n.2 (7th Cir. 2001). Thus, the Rule "does not allow a party to add materials to the record on appeal which were not before the district court."

United States v. Elizalde-Adame, 262 F.3d 637, 640 (7th Cir. 2001).

I grant the motion in part and deny it in part. The government agrees that the record should be expanded to include the government's trial memoranda, which were submitted to the district court but not formally filed. I will therefore grant the motion to this extent. The trial exhibits are already part of the record and apparently have been transferred by the clerk of this court to the court of appeals. Thus, this request is denied as moot. The discovery reports and

grand jury transcripts were not filed with the district court and thus are not properly made part of the record on appeal. The fact that these documents may assist defendant in collaterally attacking the verdict, as he apparently seeks to do, does not permit expansion of the record.

**THEREFORE, IT IS ORDERED** that the motion is **GRANTED IN PART AND DENIED IN PART**, as stated herein.

Dated at Milwaukee, Wisconsin, this 18th day of July, 2008.

/s Lynn Adelman

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LYNN ADELMAN  
District Judge